

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Raymond Gonzalez,

Plaintiff,

vs.

Terry L. Stewart, et al.,

Defendants.

No. CV-02-1822-PHX-DGC

**ORDER**

**NOTICE - - WARNING TO PLAINTIFF**

***THIS NOTICE IS REQUIRED TO BE GIVEN TO YOU BY THE COURT<sup>1</sup>***

The defendants' Motion for Summary Judgment seeks to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material facts—that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, you must set out specific facts in declarations, depositions,

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<sup>1</sup>*Rand v. Rowland*, 154 F.3d 952, 962 (9<sup>th</sup> Cir. 1998).

1 answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that  
2 contradict the facts shown in the defendants' declarations and documents and show that there  
3 is a genuine issue of material fact for trial. If you do not submit your own evidence in  
4 opposition, summary judgment, if appropriate, may be entered against you. If summary  
5 judgment is granted, your case will be dismissed and there will be no trial.

6 LRCiv 56.1 of the Rules of Practice of the United States District Court for the District  
7 of Arizona also requires, in addition, that you include as a part of your opposition to a Motion  
8 for Summary Judgment a separate statement of facts in opposition to the Motion for Summary  
9 Judgment.

10 (a) Any party filing a motion for summary judgment shall set forth  
11 separately from the memorandum of law, and in full, the specific  
12 facts on which that party relies in support of the motion. The  
13 specific facts shall be set forth in serial fashion and not in narrative  
14 form. As to each fact, the statement shall refer to a specific portion  
15 of the record where the fact may be found (i.e., affidavit,  
16 deposition, etc.). Any party opposing a motion for summary  
17 judgment must comply with the foregoing in setting forth the  
18 specific facts, which the opposing party asserts, including those  
19 facts which establish a genuine issue of material fact precluding  
summary judgment in favor of the moving party. In the alternative,  
the movant and the party opposing the motion shall jointly file a  
stipulation signed by the parties setting forth a statement of the  
stipulated facts if the parties agree there is no genuine issue of any  
material fact. As to any stipulated facts, the parties so stipulating  
may state that their stipulations are entered into only for the  
purposes of the motion for summary judgment and are not intended  
to be otherwise binding.

20 Additional provisions of LRCiv 7.2, Rules of Practice of the United States District Court  
21 for the District of Arizona are as follows:

22 Subparagraph (e) of the Rule provides:

23 Unless otherwise permitted by the Court, a motion including its  
24 supporting memorandum, and the response including its supporting  
25 memorandum, each shall not exceed seventeen (17) pages,  
26 exclusive of attachments and any required statement of facts.  
27 Unless otherwise permitted by the Court, a reply including its  
28 supporting memorandum shall not exceed eleven (11) pages,  
exclusive of attachments.

Subparagraph (i) of Rule provides:

1 If a motion does not conform in all substantial respects with the  
2 requirements of this Rule, or if the opposing party does not serve  
3 and file the required answering memoranda, or if counsel for any  
4 party fails to appear at the time and place assigned for oral  
argument, such non-compliance may be deemed a consent to the  
denial or granting of the motion and the Court may dispose of the  
motion summarily.

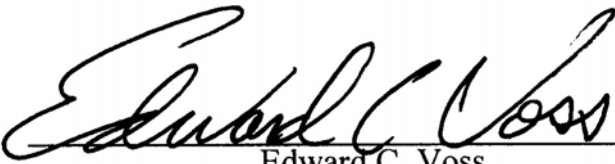
5 **It is plaintiff's obligation to timely respond to all motions. The failure of plaintiff**  
6 **to respond to defendants' Motion for Summary Judgment may in the discretion of the**  
7 **Court be deemed a consent to the granting of that Motion without further notice, and**  
8 **judgment may be entered dismissing the complaint and action with prejudice pursuant**  
9 **to LRCiv 7.2(i). See *Brydges v. Lewis*, 18 F.3d 651 (9<sup>th</sup> Cir. 1994) (per curiam).**

10 IT IS THEREFORE ORDERED:

11 1. That Plaintiff shall have until June 16, 2006 within which to file a response to  
12 Defendants' Motion for Summary Judgment, together with supporting affidavits or other  
13 appropriate exhibits and a separate Statement of Facts.

14 2. That Defendants shall have until July 3, 2006 to file a reply.

15 DATED this 17<sup>th</sup> day of May, 2006.

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19 Edward C. Voss  
United States Magistrate Judge